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Letter dated 26 April 2002 from the Secretary-General to the President of the Economic and Social Council

I have the honour to inform you and the members of the Economic and Social Council that, on 14 March 2002, the Permanent Representative of Malaysia to the United Nations informed the Legal Counsel that, on 7 July 2001, the Kuala Lumpur High Court dismissed the remaining civil suits against Dato' Param Cumaraswamy on the grounds that he enjoyed immunity from legal process in accordance with the advisory opinion of the International Court of Justice of 29 April 1999. In his letter, the Permanent Representative of Malaysia to the United Nations concludes that "the Government of Malaysia has thus discharged its responsibilities in accordance with the ICJ opinion".

The United Nations is grateful that the lawsuits pending in the Malaysian civil courts against Dato' Param Cumaraswamy have finally been dismissed in accordance with the advisory opinion of the International Court of Justice of 29 April 1999. As for the discharge of Malaysia's responsibilities, however, it should be recalled that, in commenting on the obligations of Malaysia in its advisory opinion, the International Court of Justice had, inter alia, found that Dato' Param Cumaraswamy must be held financially harmless from any costs imposed by the Malaysian courts, in particular taxed costs. It is the considered view of the United Nations that the costs imposed by the Malaysian courts within the meaning of the advisory opinion include all legal expenses imposed on Dato' Param Cumaraswamy by virtue of the court orders and proceedings in the Malaysian courts. Thus, in accordance with the advisory opinion of the International Court of Justice, Dato' Param Cumaraswamy's legal expenses are ultimately the responsibility of the Government of Malaysia.

The United Nations therefore maintains that, in order to fulfil its obligations to hold Dato' Param Cumaraswamy financially harmless, the Government of Malaysia should reimburse the Organization in the amount of US$ 118,145.91 for the legal expenses it paid on behalf of Dato' Param Cumaraswamy in connection with the four lawsuits. I wish to recall that, in my letter to the President of the Economic and Social Council dated 15 December 1999 (E/1999/124), I informed the Economic and

Social Council that the United Nations had submitted a claim for reimbursement to the Government of Malaysia in the amount of US$ 110,886.91 for the legal expenses which had accrued between January 1997 and October 1999 in connection with the proceedings in the four lawsuits that the Organization had paid on behalf of Dato' Param Cumaraswamy. A further request for reimbursement was submitted by the Legal Counsel to the Permanent Representative of Malaysia to the United Nations on 14 November 2001 for a final payment of US$ 7,259.00 which was paid by the Organization in August 2001 in connection with the aforementioned lawsuits for costs which had accrued between November 1999 and June 2001.

Thus, while the United Nations is very pleased that the lawsuits against Dato' Param Cumaraswamy have finally been dismissed, I remain concerned that the Organization has not been reimbursed for his legal expenses in accordance with the advisory opinion of the International Court of Justice of 29 April 1999.

(*Signed*) Kofi A. **Annan**